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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

JERRY A. SPOLAR, an individual;
and

TONNY JILL WILLIAMSON, an
individual,

Plaintiffs,

v.

DISCOVERY
COMMUNICATIONS, LLC, a
Delaware limited liability company;
UNREALISTIC IDEAS, LLC, a
Delaware limited liability company;
PIECE OF WORK PRODUCTIONS,
LLC, a California limited liability
company; ARCHIE GIPS, an
individual; WHITNY BRAUN, an
individual; JAMES BRAUN, an
individual; and DOES 1 through 25,

Defendants

Case No.: CV 23-7633-JFW(MRWx)

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
PLAINTIFF'S MOTION FOR
EXTENSION OF TIME WITHIN
WHICH TO EFFECTUATE
SERVICE ON DEFENDANTS**

Date: May 6, 2024

Time: 1:30 pm

Place: COURTROOM 7A

FIRST STREET

COURTHOUSE

350 W 1st St,

Los Angeles, CA 90012

Hon. John F. Walter

U.S. District Court Judge

Pursuant to Fed. R. Civ. P. 4(m), Plaintiffs, JERRY A. SPOLAR and TONNY JILL WILLIAMSON, LLC (“Plaintiff”), respectfully make this Motion for entry of an Order extending the time within which to allow the issuance of a summons and to effectuate service on the Defendants in this matter.

MEMORANDUM OF POINTS AND AUTHORITIES

I. FACTS

This is a copyright infringement case against Defendants involving Plaintiffs’ work lasting 24 years to obtain, authenticate, and establish the provenance of the 131st and last known photographic image of President Abraham Lincoln, which was taken on Lincoln’s death bed after he was shot by John Wilkes Booth.

This complaint was filed on September 13, 2023. On November 29, 2023, counsel for plaintiffs’ office was closed due to a massive office fire. Plaintiffs’ counsel’s office had significant water damage and had to be moved first to his house, and just recently to a new office in Hillsboro, Oregon. (See Response to the Order to Show Cause, Dckt 12).

II. ARGUMENT

The enlargement of time under FRPC 4(m) is equitable in nature. *Mann v. American Airlines* (2003) 324 F. 3d 1088, 1090. For a plaintiff to be granted such relief there must be some “excusable neglect”. Here an office fire, and resulting impact on counsel’s operations falls within the category of excusable neglect. In view of the Pioneer factors¹, Whether a party's failure to meet a deadline constitutes

¹ Whether a party's failure to meet a deadline constitutes excusable neglect "is (footnote continued)

excusable neglect "is an equitable determination that depends on at least four factors, known as the "Pioneer factors": (1) Defendants have not been served so there is no realistic prejudice to them as they will have time to answer; (2) the delay is small and will not impact a future trial date; (3) this delay was due to an unexpected office fire; and (4) and counsel for plaintiffs moved right after receipt of the order to show cause.

Plaintiff respectfully requests that the time within which it has to effect service of the Summons and Complaint on each Defendant be extended an additional thirty (30) days after clerk's issuance of the summons or a time the Court deems appropriate. This extension should allow Plaintiff sufficient time to serve the Defendants. Plaintiffs are filing this Motion with a Response to the Order to Show Cause re: FRCP 4(m) and Failure to Serve.

This motion is made in good faith and not for the purpose of undue delay. This is Plaintiffs' first request for an extension. None of the parties will be prejudiced by the granting of this short extension.

III. CONCLUSION

Plaintiff respectfully requests that the time within which it has to effectuate service of the Summons and Complaint on Defendants be extended to thirty days after the clerk's issuance of the summons. A proposed order is concurrently filed with this Motion.

Date: April 7, 2024

Respectfully Submitted,

an equitable determination that depends on at least four factors, known as the "Pioneer factors": (1) the danger of prejudice to the opposing party; (2) the length of the delay and its potential impact on the proceedings; (3) the reason for the delay; and (4) whether the movant acted in good faith." *Ahanchian v. Xenon Pictures, Inc.* (9th Cir. 2010) 624 F.3d 1253, 1261

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By: /s/ J. Curtis Edmondson
J. Curtis Edmondson
Attorney for Plaintiffs